

**Regular Board Meeting**  
Jackson/Teton County Housing Authority  
Teton County Old Library  
Old Library  
320 S. King, Jackson WY

March 6, 2019  
2:00 PM



1. Call to Order
2. Pronouncement of Quorum
3. Public Comment
4. Approval of Regular Meeting Minutes for February 6 and February 21, Special Meeting
5. Review of January Financials & Staff Update
6. Melody Ranch Townhomes
7. Update on 4307 Sage Meadows Drive
8. 199 E. Pearl Amendment and Restatement Special Restriction
9. 4307 Sage Meadow Road Amendment and Restatement Special Restriction
10. Matters from Staff
11. Matters from Board
12. Executive Session to interview for open board seat.
13. Adjourn

Jackson/Teton County Housing Authority  
Regular Meeting Minutes  
February 6, 2019  
Teton County Old Library

The regular meeting of the Jackson/Teton County Housing Authority Board was called to Order on February 6<sup>th</sup>, 2019 at 2:09pm in the Conference Room of the Teton County Old Library building at 320 S. King Street, Jackson, Wyoming. Attendees were Matt Faupel, Danielle Goldyn-Haigh, Amy Robinson, April Norton, Julia Johari, and Stacy Stoker.

**Pronouncement of Quorum**

Board Chair, Matt Faupel and Clerk, Danielle Goldyn-Haigh, and Vice Chair, Amy Robinson were present. Housing Authority Board Chair, Matt Faupel declared a quorum.

**Public Comment**

No Public Comments

**Approval of Minutes for January 2<sup>nd</sup>, 2019**

Danielle Goldyn-Haigh moved, and Amy Robinson seconded for approval of the minutes. The motion passed unanimously.

**Review of December Financials & Staff Update**

There was a brief Staff update regarding JTCAH's contract with Greenwood Mapping. No action was taken.

**Grove Phase 1 Budget**

Staff updated the Board to let them know that The Grove Phase 1 Budget is status quo from the January meeting, and that a Facilities Condition Assessment (FCA) is being done on January 30, 2019. Staff let the Board know that a complete report of each component of the building, its life span and maintenance/replacement cost will be provided by the company doing the assessment, and that it will be available for review at the March board meeting. No action was taken.

**The Grove Phase 1 Unit 105 Lease Renewal**

Staff updated the Board to let them know that on December 31, 2018, the Housing Department received a written request to renew the lease with Healing Waters (Unit 105). Staff recommended that the lease be renewed, since they have met the following requirements for lease renewal: Their lease requires that they request the renewal at least 120 days before the lease expires, which is June 30, 2019. Provided the tenant is not in default of the terms or conditions of their lease, the tenant has the option to renew for two additional three-year terms. As of December 21, 2018, the tenants had cured any defaults. Beginning July 1, 2019 the rent amount will be adjusted up each year at a rate of 2.5%.

### **Motion**

Danielle Goldyn-Haigh moved to approve the lease renewal with Healing Waters for Unit 105 of The Grove for an additional three years and approve the lease amendment as presented. Amy Robinson seconded. The motion passed unanimously.

### **Amendment to 260 W. Broadway Ste C Lease**

Staff updated the Board to let them know that the TSA is requesting an amendment to their lease to include cleaning of their space in their monthly rent. The change is due to the method GSA uses to pay these bills. They have indicated that it is much less cumbersome for GSA to include it in the monthly rent instead of processing monthly invoices from a cleaning company. They have proposed the following:

Current Monthly Operating Costs Paid by GSA	Proposed Operating Costs
\$4,651.31	\$5,491.31

This is a difference of \$840.00 per month for cleaning.

The current contract is with Premiere Cleaning and is for \$840.00 per month.

### **Motion**

Amy Robinson moved to approve the proposed amendment to the 260 W. Broadway Lease to include cleaning in the rent in the amount of \$840.00 per month. Danielle Goldyn-Haigh seconded. The motion was approved unanimously.

### **Melody Ranch Townhome Update**

Staff updated the Board to let them know that Town Council and Board of County Commissioners have removed this item from their February 4, 2019 Joint Information Meeting by the Mayor and County Commissioner Chair. Staff updated the Board regarding next steps. A discussion took place. No action was taken.

### **4275 Polo Pony Road Amendment and Restatement Special Restriction**

Staff updated the Board to let them know that 4275 Polo Pony Road, a Workforce Ownership unit, has sold and needs updated restrictions. A short discussion took place.

### **Motion**

Amy Robinson moved to approve the Complete Amendment and Restatement Special Restrictions for Workforce Ownership Housing Located at 4275 Polo Pony Road Teton County, Wyoming. Danielle Goldyn-Haigh seconded. The motion was approved unanimously.

### **Units 5 and 7 Raver Condominiums Amendment and Restatement Special Restrictions**

Staff updated the Board regarding Unit 7 of Raver Condominiums, which is a one-bedroom Affordable Rental unit that is not allowed to be owner occupied. Unit 5 is an identical one-bedroom Workforce Housing unit that is allowed to be owner occupied. Unit 7 was sold without notice to the Housing

Department to someone who expected to occupy it as their primary residence. Through our Compliance Program, it was discovered that the new owner was in default because he was occupying the unit. Otherwise, his employment history qualifies his occupation of a Workforce unit. To resolve this issue, and maintain compliance, staff recommended that the restriction types be swapped such that Unit 7 will now be a Workforce unit, and Unit 5 will be an Affordable Rental.

**Motion:**

Amy Robinson moved to approve the Complete Amendment and Restatement Special Restrictions for Workforce Ownership Housing Located at 250 W. Snow King Avenue Teton County, Wyoming for Unit 7 and the Complete Amendment and Restatement Special Restrictions for Affordable Rental Housing Located at 250 W. Snow King Avenue Teton County, Wyoming for Unit 5. Danielle Goldyn-Haigh seconded. The motion was approved unanimously.

**Budget Timeline**

Staff updated the Board to let them know that the Housing Authority budget is due to the Town and County by February 22, and that it will need to be reviewed and approved by the Housing Authority Board before then. Staff let the Board know that The Grove, 260 W Broadway, and Ground Lease payments will be the focus of budget revisions. Staff let the Board know that budget revisions regarding The Grove will be informed by the FCA (Facility Condition Assessment). Staff recommended a Special Meeting sometime during the week of February 18 to review and approve the budget. A discussion took place. A meeting was scheduled for Wednesday, February 21<sup>st</sup> from 9:30 – 10:30am. No action was taken.

**Matters from Staff**

Nothing

**Matters from Board**

Nothing

**Executive Session to Discuss Real Estate in accordance with W.S. §16-4-405 (a.iii)**

A confidential Executive Session took place. No action was taken.

**Adjourn**

Matt Faupel moved to adjourn the meeting at 3:04pm. Danielle Goldyn-Haigh seconded. The motion passed unanimously.

Respectfully Submitted:

Danielle Goldyn-Haigh, Clerk

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Approved by the Board of Housing Authority Commissioners as evidenced by their signatures below:

Matt Faupel                      Date\_\_\_\_\_

Chair

Amy Robinson                      Date\_\_\_\_\_

Vice Chair

Danielle Goldyn-Haigh      Date\_\_\_\_\_

Clerk

Jackson/Teton County Housing Authority  
Special Meeting Minutes  
February 21, 2019  
Teton County Old Library

The special meeting of the Jackson/Teton County Housing Authority Board was called to order on February 21<sup>st</sup>, 2019 at 9:34am in the Conference Room of the Teton County Old Library building at 320 S. King Street, Jackson, Wyoming. Attendees were Matt Faupel, Danielle Goldyn-Haigh, Amy Robinson, April Norton, Julia Johari, and Stacy Stoker.

**Pronouncement of Quorum**

Board Chair, Matt Faupel and Clerk, Danielle Goldyn-Haigh, and Vice Chair, Amy Robinson were present. Housing Authority Board Chair, Matt Faupel declared a quorum.

**Public Comment**

No Public Comments

**Staff Updates**

An update to the agenda was made, changing "Grove Phase I" to "JTCAH Budget".

**Review of the Proposed Jackson/Teton County Housing Authority Budget for FY19/20**

The purpose of this Special Meeting is for the Housing Authority Board to review and approve the budget for Fiscal Year 2019/2020. The budget is due to Teton County by 5:00 p.m. on February 22, 2019. Staff reviewed the proposed Jackson/Teton County Housing Authority Budget for FY19/20 with the Board. Four key issues in the proposed Housing budget were discussed: Millward Ground Lease Funds, the Supply Account, the Administration Account, and the Grove Phase 1 Reserves Account.

**Motion**

Danielle Goldyn-Haigh moved to approve the Housing Authority Budget for FY 2019/2020 with the following changes:

- Create a supply account instead of using a reserve account
- Include the sale of 4307 Sage Meadows Road in the supply account

Amy Robinson seconded. The motion was approved unanimously.

**Adjourn**

Amy Robinson moved to adjourn the meeting at 10:00am. Matt Faupel seconded. The motion passed unanimously.

Respectfully Submitted:

Danielle Goldyn-Haigh, Clerk

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Approved by the Board of Housing Authority Commissioners as evidenced by their signatures below:

Matt Faupel                      Date \_\_\_\_\_  
Chair

Amy Robinson                      Date \_\_\_\_\_  
Vice Chair

Danielle Goldyn-Haigh      Date \_\_\_\_\_  
Clerk

## JACKSON/TETON COUNTY HOUSING AUTHORITY

**Balance Sheet**

As of January 31, 2019

	Jan 31, 19	Dec 31, 18	\$ Change
<b>ASSETS</b>			
Current Assets			
Checking/Savings			
FIB - Administration	147,561.85	133,923.05	13,638.80
FIB - Millward Ground Lease	130,632.60	128,607.20	2,025.40
Total Checking/Savings	278,194.45	262,530.25	15,664.20
Accounts Receivable			
Ground Lease Receivables	4,322.46	10,093.49	(5,771.03)
Total Accounts Receivable	4,322.46	10,093.49	(5,771.03)
Total Current Assets	282,516.91	272,623.74	9,893.17
Fixed Assets			
Buildings & Improvements			
260 West Broadway	1,391,040.08	1,391,040.08	0.00
Accumulated Depreciation	(621,234.82)	(621,234.82)	0.00
The Grove Phase I	6,776,024.29	6,776,024.29	0.00
Total Buildings & Improvements	7,545,829.55	7,545,829.55	0.00
Furniture, Fixtures & Equipment	22,024.69	22,024.69	0.00
Land & Projects			
575 East Hall Avenue	1,159,017.60	1,159,017.60	0.00
Hall Street	2,565,214.22	2,565,214.22	0.00
Millward Neighborhood	1,412,795.50	1,412,795.50	0.00
Mountain View Meadows	450,000.00	450,000.00	0.00
Rains Property	2,002,815.01	2,002,815.01	0.00
The Grove	3,385,000.00	3,385,000.00	0.00
Wilson Meadows	353,080.00	353,080.00	0.00
Total Land & Projects	11,327,922.33	11,327,922.33	0.00
Total Fixed Assets	18,895,776.57	18,895,776.57	0.00
Other Assets			
Allowance for Doubtful Accou...	(273,481.00)	(273,481.00)	0.00
Snow King Apts. Int. Receivable	3,481.00	3,481.00	0.00
Snow King Apts. Note Receiv...	270,000.00	270,000.00	0.00
Total Other Assets	0.00	0.00	0.00
<b>TOTAL ASSETS</b>	<b>19,178,293.48</b>	<b>19,168,400.31</b>	<b>9,893.17</b>
<b>LIABILITIES &amp; EQUITY</b>			
Liabilities			
Current Liabilities			
Accounts Payable			
Accounts Payable	5,397.80	4,526.93	870.87
Total Accounts Payable	5,397.80	4,526.93	870.87
Other Current Liabilities			
Current Portion of LTD	112,000.00	112,000.00	0.00
Security Deposits	49,529.58	48,178.58	1,351.00
Total Other Current Liabilities	161,529.58	160,178.58	1,351.00
Total Current Liabilities	166,927.38	164,705.51	2,221.87



## JACKSON/TETON COUNTY HOUSING AUTHORITY

**Balance Sheet**

As of January 31, 2019

	Jan 31, 19	Dec 31, 18	\$ Change
Long Term Liabilities			
Current Portion of LT Debt	(112,000.00)	(112,000.00)	0.00
Note Payable - FIB(6348)	2,665,497.57	2,675,365.03	(9,867.46)
Total Long Term Liabilities	2,553,497.57	2,563,365.03	(9,867.46)
Total Liabilities	2,720,424.95	2,728,070.54	(7,645.59)
Equity			
Retained Earnings	16,367,274.23	16,367,274.23	0.00
Net Income	90,594.30	73,055.54	17,538.76
Total Equity	16,457,868.53	16,440,329.77	17,538.76
TOTAL LIABILITIES & EQUITY	19,178,293.48	19,168,400.31	9,893.17

## JACKSON/TETON COUNTY HOUSING AUTHORITY

## Profit &amp; Loss by Class

January 2019

	Administration	Broadway	Hall	Millward	The Grove	Wilson Meado...	Wilson Park	TOTAL
Ordinary Income/Expense								
Income								
Facilitation Fee	3,450.00	0.00	0.00	0.00	0.00	0.00	0.00	3,450.00
Rent Income	0.00	19,161.25	400.00	1,540.00	30,183.64	555.00	400.00	52,239.89
Total Income	3,450.00	19,161.25	400.00	1,540.00	30,183.64	555.00	400.00	55,689.89
Gross Profit	3,450.00	19,161.25	400.00	1,540.00	30,183.64	555.00	400.00	55,689.89
Expense								
Insurance	0.00	(206.95)	0.00	0.00	0.00	0.00	0.00	(206.95)
Management Fees	0.00	0.00	0.00	0.00	2,621.75	0.00	0.00	2,621.75
Professional Fees	3,590.00	2,400.00	0.00	0.00	0.00	0.00	0.00	5,990.00
Rent(Ground Lease ...	0.00	12,746.90	0.00	0.00	0.00	0.00	0.00	12,746.90
Repairs & Maintena...	0.00	908.80	0.00	0.00	1,779.74	0.00	0.00	2,688.54
Taxes & Licenses	0.00	(155.86)	0.00	0.00	0.00	0.00	0.00	(155.86)
Telephone	0.00	0.00	0.00	0.00	274.41	0.00	0.00	274.41
Utilities	0.00	584.45	0.00	0.00	3,096.86	0.00	0.00	3,681.31
Total Expense	3,590.00	16,277.34	0.00	0.00	7,772.76	0.00	0.00	27,640.10
Net Ordinary Income	(140.00)	2,883.91	400.00	1,540.00	22,410.88	555.00	400.00	28,049.79
Other Income/Expense								
Other Income								
Interest Income	0.00	18.96	0.00	15.40	0.00	0.00	0.00	34.36
Total Other Income	0.00	18.96	0.00	15.40	0.00	0.00	0.00	34.36
Other Expense								
Interest Expense	0.00	0.00	0.00	0.00	10,545.39	0.00	0.00	10,545.39
Total Other Expense	0.00	0.00	0.00	0.00	10,545.39	0.00	0.00	10,545.39
Net Other Income	0.00	18.96	0.00	15.40	(10,545.39)	0.00	0.00	(10,511.03)
Net Income	(140.00)	2,902.87	400.00	1,555.40	11,865.49	555.00	400.00	17,538.76

## JACKSON/TETON COUNTY HOUSING AUTHORITY

## Profit &amp; Loss by Class

July 2018 through January 2019

	Administration	Broadway	Hall	Millward	The Grove	Wilson Meado...	Wilson Park	TOTAL
Ordinary Income/Expense								
Income								
Facilitation Fee	3,450.00	0.00	0.00	0.00	0.00	0.00	0.00	3,450.00
Rent Income	0.00	134,128.75	1,150.00	10,750.00	216,841.26	1,540.00	1,225.00	365,635.01
Total Income	3,450.00	134,128.75	1,150.00	10,750.00	216,841.26	1,540.00	1,225.00	369,085.01
Gross Profit	3,450.00	134,128.75	1,150.00	10,750.00	216,841.26	1,540.00	1,225.00	369,085.01
Expense								
Insurance	0.00	(1,448.65)	0.00	0.00	7,981.00	0.00	0.00	6,532.35
Management Fees	0.00	0.00	0.00	0.00	17,702.00	0.00	0.00	17,702.00
Professional Fees	24,520.00	2,400.00	0.00	0.00	0.00	0.00	0.00	26,920.00
Rent(Ground Lease ...	0.00	89,228.30	0.00	0.00	0.00	0.00	0.00	89,228.30
Repairs & Maintena...	0.00	4,013.80	0.00	4,560.00	15,948.91	0.00	0.00	24,522.71
Taxes & Licenses	15.00	6,419.14	0.00	0.00	13,561.60	0.00	0.00	19,995.74
Telephone	0.00	0.00	0.00	0.00	954.67	0.00	0.00	954.67
Utilities	0.00	2,436.77	0.00	0.00	15,422.49	0.00	0.00	17,859.26
Total Expense	24,535.00	103,049.36	0.00	4,560.00	71,570.67	0.00	0.00	203,715.03
Net Ordinary Income	(21,085.00)	31,079.39	1,150.00	6,190.00	145,270.59	1,540.00	1,225.00	165,369.98
Other Income/Expense								
Other Income								
Interest Income	0.00	131.90	0.00	104.50	0.00	0.00	0.00	236.40
Other Income	0.00	0.00	0.00	0.00	300.00	0.00	0.00	300.00
Total Other Income	0.00	131.90	0.00	104.50	300.00	0.00	0.00	536.40
Other Expense								
Interest Expense	0.00	0.00	0.00	0.00	75,312.08	0.00	0.00	75,312.08
Total Other Expense	0.00	0.00	0.00	0.00	75,312.08	0.00	0.00	75,312.08
Net Other Income	0.00	131.90	0.00	104.50	(75,012.08)	0.00	0.00	(74,775.68)
Net Income	(21,085.00)	31,211.29	1,150.00	6,294.50	70,258.51	1,540.00	1,225.00	90,594.30



MEMO

**TO:** Jackson/Teton County Housing Authority Board  
**FROM:** Housing Department Staff  
**DATE:** February 27, 2019  
**SUBJECT:** Monthly Staff Update

**How to Sell and How to Buy Booklets** – The *How to Sell* booklet is complete. Staff has edited the first draft and has recently received the second draft. It should be finalized in the next few weeks.

**Database** – The Housing Department's database is being updated. Several revisions are being done to help staff with tracking data, running reports, etc. It is also a step in moving toward receiving applications and drawing entries on line.

**Sales and rentals** – Year-to-Date Stats, January 1 to February 26, 2019:

- 2 homes sold/closed to date
- 1 household under contract
- Grove rental unit 202 tenant took possession 1/28
- Grove rental unit 307 tenant took possession 1/30
- 1 home just completed the weighted drawing process

The chart below shows the stats requested by the Board for weighted drawings.

Unit	Bedrooms	Total Applicants	Average Points	Selected Household Points	Status
Unit 46 Millward	3	9 (No Dogs)	10	10 entries Picked on 1	Closed
Unit 19 Melody Ranch	2	8	6	10 entries Picked on 1	Closed
Unit 205 199 East Pearl	1	37	2	10 entries Picked on 3	Household under contract closing 4/18/19
Unit 202 Grove rentals	2	5	10	5 entries Picked on 1	moved in
Unit 307 Grove rentals	1	5	6	6 entries Picked on 1	moved in

Unit 38 810 West	2				Weighted drawing period
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Listed below are the families who have been chosen in drawings this year and have either closed or are in the process of purchasing their new home.

- Sonia Susano Hernandez and Arraon Rameriz + 2 children
  - Sonia works at Children’s Learning Center. Aaron works at Mountain Top Tile and Tasker Care.
  - 3-bedroom, 2-bathroom unit.
  - Closed
- KC and Mary Bess + 2 Children
  - KC works at Mad River and Mary works at JH Wildlife Safaris
  - 2-bedroom, 2-bathroom unit
  - Closed

Listed below are the families who have been chosen in drawings for rental units this year and have moved into The Grove:

- Janet Romero and David Morillon Torija + one child
  - Janet works at Saint John’s Medical Center and David works at Lucky’s Market
  - 2-bedroom plus unit
  - Moved in
- Cataline Garcia Hernandez + one child
  - Cateline works at Stitch Upholstery as a seamstress
  - 1-bedroom unit
  - Moved in

**Grove Phase 2 Warrantees** –This involves installing thresholds on the ground floor back doors to stop water from entering. GE Johnson has been working with the architect to design a flashing piece that will stop water from coming in the edges. GE Johnson has also been adding caulking and foam insulation to the exterior to alleviate leaking of water into the storage closets. The Housing Department has coordinated between the owners and GE Johnson to schedule the repairs. They are ongoing.

**Grove Phase 1 Lease Renewals** – Requalification of tenants at The Grove will begin in May with lease renewals taking place September 1.

**Employee/Affordable Rental Housing Verification** –The owners of these units are required to annually verify the units are being rented to employees working in Teton County. Recently approved standardized restriction templates are now in use for new units. There are 419 total Employee/Affordable Rental units.

- 79 existing units have been contacted for the 2018-2019 annual verification. 60 have provided the requested documents and are compliant with their restrictions.
- Meadowbrook B9 restriction revision. The Housing Department has offered to record the new standardized restriction on this unit. Forwarded a copy for review by the owner.

- Phillips 66 has provided verification documents. A request to inspect the unit has been made. Mini Mart continues to have a unit unoccupied. They have a deadline of 3/8/19 to submit complete information. A request has been made by staff to inspect these units. The Housing Department will fill this vacancy by identifying a qualified employee if deadline is not met.
- Old West Cabins - a violation letter was sent with a deadline of 4/1/19. Owner needs to provide complete verification that includes: employment/income/rental cap for 4 of the 6 units.
- The Hillside Business 2 unit previously referred to the County Attorney for default has recently provided verification documents. Owner is now compliant with the restriction.

**Sunset Clause Releases** – There were a total of 99 units that have a sunset clause restriction in Housing Department inventory. Since 2017, 20 have expired. 20 more are set to expire starting in July 2019, 10 are due to expire in 2020, and two in 2021.

**Request to Rent/Leave of Absence** - No new Request to Rent or Leave of Absence has been requested since the last Board meeting. There are two (2) active approved leave of absences. One expires 5/1/19 and the other expires 6/1/19. A homeowner in the Cottonwood Flats development recently inquired into a Request to Rent due to illness. Staff explained the appropriate procedure and forms to submit. No documents have been received yet.

**Request for Exception** – One request for Exception has been received. The request is for an exception to the Workforce Ownership rule requiring a household to earn a minimum of 75% of their income from a local business.

**Employment-Based/Workforce Ownership Requalifications** - The Housing Department has 53 employment-based homes to requalify annually. One (1) household was forced to sell. All remaining households have been requalified for 2018.

**Online Weighted Drawing Form** – The next step in our online services is the online weighted drawing form. The goal of this is to run all of our weighted drawings through an online process. Households will be able to choose to enter a weighted drawing using the information from their Intake Form. They will also have the ability to upload required documents online. This will streamline the process for both customers and staff. The Online Weighted Drawing Form test version was released on February 17. It is anticipated to be available starting in August 2019. We now have a computer in our office for applicants to use in case they need assistance and/or don't have access to a computer and/or scanner. We also have our application documents available in Spanish.

**Spanish-Language Outreach** – During March and April the Library and One 22 will provide Spanish-language outreach to households who wish to complete an online Intake Form. Housing Department staff has been working with both the Library and One 22 to help coordinate this outreach and to plan for similar programming outreach this spring/summer.



MEMO

**TO: Jackson/Teton County Housing Authority Board**  
**FROM: Stacy Stoker, Housing Manager**  
**DATE: March 6, 2019**  
**SUBJECT: March 6, 2019 Housing Authority Board Agenda**

**Item 6. Melody Ranch Townhomes**

The Housing Department has received communications from the County Attorney concerning the Covenants Conditions and Restrictions for Melody Ranch Townhomes. Staff has also received a letter from the HOA written by their attorney, Frank Hess. Both are attached. Staff is looking for direction from the Board on next steps. The elected officials have indicated that they do not want to hear this item unless all outstanding questions are answered and there is a strong recommendation from the Housing Authority Board.

**Outstanding Questions**

1. What is the actual cost of fixing these roofs?
2. How do we know if all roofs are affected?
3. Where in the process is the RFP for the architect and engineer that the HOA put out?
4. Were the buildings originally built to code? Is it absolutely a certainty that at the time of construction the wrong materials were used?
5. What is the obligation of the Housing Department to enforce maintenance on the homes?

**Item 7. Update on 4307 Sage Meadow Road**

The closing for 4307 Sage Meadow Road was completed on February 26, 2019. The former owner will be leasing the property back from the Housing Authority through the end of March. A new Workforce Housing Restriction will be recorded on the property, and the home will be sold for \$500,000. The closing should take place the first week of June. As discussed during budget approval, proceeds from the sale will go into the Housing Supply Account.

**Item 8. 199 E. Pearl #205 Amendment and Restatement Special Restriction**

199 E. Pearl #205 is a condominium in the 199 E. Pearl building located on the corner of Pearl and Willow. It currently for sale and has an Employment-based restriction on it, and this Amendment and Restatement Special Restriction will bring it up to date with the standardized Workforce Housing Restriction.

**Suggested Motion**

I move to approve the Amendment and Restatement Special Restriction for Workforce Housing located at 199 E. Pearl Condominium Addition Unit 205 Town of Jackson Wyoming.

**Item 9. 4307 Sage Meadow Road Amendment and Restatement Special Restriction:**

4703 Sage Meadow Road is a property recently purchased by the Housing Authority. Its current Affordable Category 2 restriction has a sunset clause in the restriction that is due to expire in approximately one year, which would make it a market home. This Amendment and Restatement restriction will reclassify the home as a Workforce Housing unit, bring it up to date with the standard restrictions, and remove the sunset clause allowing the home to stay in the program in perpetuity.

**Suggested Motion:**

I move to approve the Amendment and Restatement Special Restriction for Workforce Housing located at 4307 Sage Meadow Road, Teton County Wyoming.



Frank Hess\*  
Paul E. D'Amours\*\*  
Nicole G. Krieger\*

**Hess D'Amours & Krieger, LLC**  
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Karin Larson  
Legal Assistant/Receptionist

\* Admitted in WY  
\*\* Admitted in WY, ID & CO

February 24, 2019

Carrie Geraci  
Townhomes at Melody Ranch  
Jackson, Wyoming

Via e-mail: carrie@jhpublicart.org

RE: Insurance Coverage/  
Reconstruction issues

Dear Carrie:

This letter is in response to the Board's request made at the meeting held at my office on February 22, 2019 with respect to insurance coverage or lack thereof, and legal recommendation with respect to reconstruction requirements as set forth in the Covenants.

**Insurance:** I have reviewed the Farm Bureau Insurance policy with respect to coverage and exclusions. In short, the policy does not cover the defective roofs. That conclusion is based on the following:

**Sub-paragraph 3 of Section B. Exclusions of Article I** states as follows:

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Sub-paragraph c., **Negligent Work of Article I, Section B, 3.** provides (excludes):

**c. Negligent Work**

Faulty, inadequate or defective:

- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading compaction;
- (3) Materials used in ....construction....

Sub-section 3. above leaves the door open for coverage if the exclusion is otherwise covered under "Covered Causes of Loss". "**Covered Causes of Loss**" is

defined in Paragraph 3 of Section A, **Coverage**, as:

**3. Covered Cases of Loss**

Risk of direct physical loss unless the loss is:

- a. Excluded in Paragraph **B. Exclusions** in Section I; or
- b. Limited in Paragraph **4. Limitations** in Section I.

As sub-section **3. c. Negligent Work**, comes under the umbrella of Section I (Roman number I, not number 1), Paragraph **B. Exclusions**, the defective roofs are not covered under the Farm Bureau policy. I have attached and highlighted the provisions cited above.

It has been suggested that the Board make a claim against Farm Bureau Insurance, and if it denies that claim, to file a lawsuit against them. There would not be a basis for such a lawsuit and such would subject the HOA and myself to sanctions by the District Court for filing a frivolous lawsuit that has no basis under the insurance contract. Additionally, Farm Bureau would likely cancel coverage of the townhouses for casualty and liability, which would make it very difficult to obtain coverage elsewhere.

Reconstruction: It has been pointed out by the County that the Board should follow the procedures in the Covenants for reconstruction. Section 11.6 Reconstruction, of the Covenants provides that the Board (Management Committee) is appointed as attorney-in-fact for "purposes of dealing with the property upon its destruction or obsolescence". That provision provides amongst other things that if there is damage to more than one-third of the townhome units and insurance is insufficient, that the Board shall present a plan of reconstruction within 100 days after such damage. That plan must then be voted upon and approved by 51% of the owners and 100% of the first mortgage holders.

If that plan of reconstruction is not so approved, the Board per its power-of-attorney granted in Section 11.6, Reconstruction, shall sell Melody the entire Townhome development as a package. The purchaser would take free and clear of any Covenants as set forth in lines 12 and 13 of sub-section c of Paragraph 11.6.

Even though the Covenants mandate pursuing that avenue in the event of "destruction", such would be an act of futility. Just getting the plan of reconstruction itself approved by the owners and mortgage holders presents two impossibilities, namely;

- 1) There are simply no funds available at this time for the estimated \$3M reconstruction costs. Thus, any such plan is not economically viable; and



2) The Board will never be able to obtain consents from the mortgage holders, at least not 100% of them. I have been down that avenue in the past and can assure the Board it wouldn't even get a couple of consents, regardless of how presented to the mortgage holders.

The next futile step then required under the Covenants would be for the Board to sell the entire development. Without any doubt whatsoever, that would result in numerous lawsuits against the HOA along with restraining orders. Those lawsuits would no doubt be brought by the free market owners, those owners about to sunset, and mortgage holders (both first and second ones) amongst others.

Some units are not as heavily damaged as others. The letter of June 14, 2018 from Buchko Structural Engineering regarding the roofs certainly indicate that they are on the verge of destruction. However, the collective damage doesn't necessarily rise to the extent of the Covenant requirement of "destruction or obsolescence". Such would be one of the bases for a lawsuit. Additionally, the remedy of selling the entire development isn't applicable to this situation from a practicable point of view. The economic loss to the Melody townhouse owners would be enormous if the Board proceeded with the Covenant mandated sale.

I can not recommend pursuing that course of action at all, even if the Board is left with no help from the County or Housing Authority.

Please feel free to share this opinion with Teton County, the Housing Authority, or any others.

Sincerely,



Frank Hess

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

**m. Errors Or Omissions**

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this coverage form.

**n. Installation, Testing, Repair**

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your "computer" system including "electronic data".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this coverage form.

**o. Electrical Disturbance**

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

**p. Continuous Or Repeated Seepage Or Leakage Of Water**

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**a. Weather Conditions**

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B.1. above to produce the loss or damage.

**b. Acts Or Decisions**

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

**c. Negligent Work**

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

**4. Additional Exclusion**

The following applies only to the property specified in this Additional Exclusion.

**Loss Or Damage To Products**

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**5. Business Income And Extra Expense Exclusions**

a. We will not pay for:

- (1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:
  - (a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or



## 2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
  - (1) Money And Securities Optional Coverage; or
  - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns;
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants, all except as provided in the:
  - (1) Outdoor Property Coverage Extension; or
  - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this policy;
- h. "Computer(s)" which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer(s)" while held as "stock";
- i. "Electronic data", except as provided under Additional Coverages - Electronic Data. This Paragraph i. does not apply to your "stock" of prepackaged software.
- j. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings.

## 3. Covered Causes Of Loss

Risks of direct physical loss unless the loss is:

- a. Excluded in Paragraph B. Exclusions in Section I; or
- b. Limited in Paragraph 4. Limitations in Section I.

## 4. Limitations

a. We will not pay for loss of or damage to:

- (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
- (3) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
- (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
- (5) The interior of any building or structure caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
  - (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
  - (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

b. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:

- (1) Animals, and then only if they are killed or their destruction is made necessary.
- (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
  - (a) Glass that is part of the exterior or interior of a building or structure;

## B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

### a. Ordinance Or Law

- (1) The enforcement of any ordinance or law:
  - (a) Regulating the construction, use or repair of any property; or
  - (b) Requiring the tearing down of any property, including the cost of removing its debris.
- (2) This exclusion, Ordinance Or Law, applies whether the loss results from:
  - (a) An ordinance or law that is enforced even if the property has not been damaged; or
  - (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

### b. Earth Movement

- (1) Earthquake, including any earth sinking, rising or shifting related to such event;
- (2) Landslide, including any earth sinking, rising or shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

### c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

### d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

### e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.



But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

**m. Errors Or Omissions**

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
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However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this coverage form.

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However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this coverage form.

**o. Electrical Disturbance**

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

**p. Continuous Or Repeated Seepage Or Leakage Of Water**

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

- 3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.**

**a. Weather Conditions**

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B.1. above to produce the loss or damage.

**b. Acts Or Decisions**

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

**c. Negligent Work**

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

**4. Additional Exclusion**

The following applies only to the property specified in this Additional Exclusion.

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We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**5. Business Income And Extra Expense Exclusions**

a. We will not pay for:

- (1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:
  - (a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

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## **MEMORANDUM**

**To: Jackson/Teton County Housing Authority Board**  
**From: Keith Gingery, Deputy County Attorney**  
**Cc: April Norton, Jackson/Teton County Affordable Housing Department Director**  
**Date: February 22, 2019**  
**Re: Covenants for the Townhomes at Melody Ranch**

**Issue:** The Jackson/Teton County Housing Authority Board has held discussions with the owners of townhomes located at the Melody Ranch Townhomes regarding roof issues. The question was asked as to how the Covenants for the Townhomes at Melody Ranch operate in regards to repairs or re-construction.

**Rule:** The Townhomes at Melody Ranch are governed by the *Declaration of Protective Covenants for the Townhomes at Melody Ranch* dated June 27, 1997. The covenants were drafted by No-Pro Housing, the Wyoming Corporation that developed and built the Townhomes at Melody Ranch. All of the townhomes within the Townhomes at Melody Ranch are subject to the 1997 Covenants.

**Application:**

The Covenants are enforced by the Townhomes at Melody Ranch Homeowner's Association. There are 5 board members that govern the Townhomes at Melody Ranch Homeowner's Association.

Paragraph 3.10 Assessments states that the Board of Directors of the Homeowner's Association may assess properties governed by the covenants. Section 2 Exterior of Buildings under



Paragraph 3.10 Assessments states that the board may assess for the “repair and/or replacement of the roofs.”

Under Paragraph 11.1 Insurance the Homeowner’s Association **shall** obtain and maintain at all times maintain insurance on the properties. The individual homeowners are encouraged in the Covenants to carry their own insurance.

Paragraph 11.6 Reconstruction

The first step in the process as outlined in Paragraph 11.6 Reconstruction is to determine if an event has occurred that has damaged or destroyed the property by fire or other disaster. (subparagraph (a)). The difficulty in interpreting this section in relation to the issue at hand is that a disaster or fire has not occurred. For some of the homes there is no damage as of yet. Thus, the first threshold question will be whether Paragraph 11.6 Reconstruction even applies since there has not been a fire or disaster and some units show no signs of any damage.

However, if a determination was made by the Homeowner’s Association that Paragraph 11.6 Reconstruction applies then the process works as such:

1. Insurance proceeds are applied first.
2. If insurance proceeds are insufficient **and less than 1/3** of the of the units were affected, then the Board of the HOA can assess and use those funds to make up the difference left by the insufficient insurance proceeds.
3. If the insurance proceeds are insufficient **and more than 1/3** of the units were affected. And if the owners representing 51% of the ownership **do not make** provisions for reconstruction, and such plan must obtain unanimous support of all first mortgagors, the entire townhome project shall be sold. How this actually happens is not quite clear in the covenants.
4. If the insurance proceeds are insufficient and **more than 1/3** of the units were affected. And if the owners representing 51% of the ownership **do make a plan** for reconstruction, and such plan obtains unanimous support of all first mortgagors, then the plan is implemented with the assessments against the homeowners.
5. If the owners of **2/3 of the units** agree, and there is unanimous support from the first mortgagors, then the plan may be to raze all of the buildings and build new ones. However, if this option is chosen, the individual unit owners may declare that they desire the HOA to purchase their unit, which if multiple units decided to take this option would make this option financially impossible.

### **Conclusion**

It is unlikely that Paragraph 11.6 Reconstruction applies at this point. There has not been a fire or disaster and most of the units have shown no damage. The more obvious authority for the assessment comes from Paragraph 3.10 Assessments that allows the HOA board to assess the property owners for repairs to the roof.

**SECOND COMPLETE AMENDMENT AND RESTATEMENT**  
**Special Restrictions**  
**For Workforce Ownership Housing**  
**Located at**  
**199 East Pearl Condominium Addition Unit 205 Town of Jackson Wyoming**

This Second Complete Amendment and Restatement of the November 16, 2012 Complete Amendment and Restatement Special Restrictions for Employment-Based Housing Located at 199 East Pearl Condominium Addition to the Town of Jackson, Unit 205, as amended recorded in the Office of the Teton County Clerk as document number 0825718 book of photo 825 pages 943 - 957 for 199 E. Pearl Unit 205 is made this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by the Jackson/Teton County Housing Authority ("JTCHA"), the Town of Jackson and the undersigned owner ("Owner") ("Special Restrictions").

**RECITALS:**

**WHEREAS**, the undersigned Owner holds fee ownership interest in that certain real property known as 199 E. Pearl Unit 205 located in Teton County, Wyoming, and more specifically described as follows:

Unit 205 of the 199 East Pearl Condominium Addition to the Town of Jackson, according to that plat recorded in the Office of the Teton County Clerk on February 17, 2004, as Plat No. 1107

PIDN: 22-41-16-34-2-76-010 (the "Land");

**WHEREAS**, as a condition of its FDP (93-85.4), dated March 4, 2002 for the 199 East Pearl Condominium Addition to the Town of Jackson (the "FDP Approval"), Owner was required to dedicate two one-bedroom 734 square foot condominiums as Workforce Housing units (formerly known as Employment-based units) to be owned or rented by households who work in Teton County and will occupy the units as their sole primary residences (the "Residential Units");

199 East Pearl Unit 205, a 734 square foot one-bedroom Workforce Housing condominium.

**WHEREAS**, in furtherance of the goals, objectives, requirements and conditions of the FDP Approval, Owner was required to restrict the initial and all subsequent sales and transfers of each Residential Unit, defined above, to a "Qualified Household,";

**WHEREAS**, consistent with the foregoing, the Land is subject to those certain Complete Amendment and Restatement Special Restrictions for Employment-Based Housing Located at 199 East Pearl Condominium Addition to the Town of Jackson, Unit 205, as amended recorded November 16, 2012 as Document number 0825718 in book of photo 825 pages 943 - 957 (the "2012 Special Restrictions");

**WHEREAS**, in accordance with Section 9.B of the 2012 Special Restrictions, the Special Restrictions may be modified with the written consent of the Owner, TCHA, and the Town of Jackson ;

**WHEREAS**, the Jackson Town Council and Teton County Board of County Commissioners voted to amend their 1990 Resolution creating the Teton County Housing Authority (“TCHA”) and further amend the 1999 Resolution, to form a regional Housing Authority pursuant to Wyoming Statute §15-10-116(b) with the County of Teton and the Town of Jackson forming the regional housing authority known as the Jackson/Teton County Housing Authority (“JTCHA”), making the JTCHA the successor in interest to all deeds, documents, leases, and contracts of TCHA;

**WHEREAS**, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department (“Housing Department”) who will be employees of Teton County and agents acting on behalf of the JTCHA;

**WHEREAS**, in accordance with such Section 9.B of the 2012 Special Restrictions, and consistent with the foregoing Recitals, JTCHA and the undersigned Owner now desire to amend, restate and replace in their entirety with respect to the Residential Unit and Land the 2012 Special Restrictions by adopting these Second Complete Amended and Restated Special Restrictions for Workforce Ownership Housing Located at 199 East Pearl Condominium Addition Unit 205, Town of Jackson Wyoming (“Special Restrictions”);

**WHEREAS**, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to W.S. §15-10-116, as amended, and its successors or assigns, the Jackson/Teton County Affordable Housing Department (collectively “Housing Department”) and the Town of Jackson, Wyoming.;

#### **RESTRICTIONS:**

**NOW THEREFORE**, in satisfaction of the conditions in the FDP Approval, and in further consideration of the foregoing Recitals, which are by this reference incorporated herein, Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Unit, that the Land and each Residential Unit shall be owned, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

#### **SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT RULES AND REGULATIONS.**

References made herein to the “Rules and Regulations” are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended, modified, or updated from time to time and which policies, procedures and guidelines are on file with the Housing Department or otherwise with the Town of Jackson, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

## SECTION 2. OWNERSHIP BY QUALIFIED HOUSEHOLD.

- A. Qualified Household. The ownership, use and occupancy of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household for Workforce Housing, as set forth below ("Qualified Household").
1. Employment Requirement. At least one (1) member of the Qualified Household must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A "local business" means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the business serves clients or customers who are physically located in Teton County, Wyoming.
  2. Income Requirement: The entire Qualified Household must earn at least seventy-five percent (75%) of the Household's income from a local business, as defined above.
  3. No Teton County Residential Real Estate. No member of the Qualified Household may own or have any interest (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) in whole or in part in any other residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at any time during occupancy of the Residential Unit.
  4. Determination by the Housing Department. The Housing Department shall determine whether a prospective occupant is a Qualified Household. In addition to any requirements set forth in the Rules and Regulations, such determinations shall be based upon written applications, representations, information and verification as are deemed by the Housing Department to be necessary to establish and substantiate eligibility.
  5. Continuing Obligation to Remain a Qualified Household. Households residing in the Residential Unit shall satisfy the definition of a Qualified Household at all times during occupancy of the Residential Unit.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of the Town of Jackson Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.
- C. Ownership by Housing Department. Notwithstanding the foregoing, the Housing Department may purchase and own the Residential Unit.

**SECTION 3. RESTRICTIONS ON OCCUPANCY, IMPROVEMENT AND USE OF RESIDENTIAL UNIT.** In addition to any restrictions included in the Rules and Regulations, occupancy and use of the Residential Unit shall be restricted as follows:

- A. Occupancy.
  - a. Occupancy by Owner. The Residential Unit may only be occupied by a Qualified Household, shall be such Qualified Household's sole and exclusive primary residence, and each Qualified Household occupying the Residential Unit shall physically reside therein on a full-time basis, at least ten (10) months out of each calendar year. Except for permitted guests, no person other than those comprising the Qualified Household may occupy the Unit, provided that such requirement does not violate federal or state fair housing laws.
  - b. Occupancy by Tenant. The Residential Unit occupied by a tenant shall be the Qualified Household's sole and exclusive primary residence, and each tenant of a Residential Unit shall physically reside therein on a full-time basis, at least eighty percent (80%) of the term of the lease. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit. Only members of the Qualified Household may occupy a Residential Unit.
- B. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.
- C. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of thirty (30) cumulative days per calendar year.
- D. Renting. Owners may rent the Residential Unit to a Qualified Household after verification and qualification of eligibility by the Housing Department.
- E. Rental Term. The Residential Unit shall be offered for rent in periods of not less than thirty-one (31) days.
- F. Vacancies. The Residential Unit may be vacant intermittently between tenancies to allow for proper advertisement and verification for Qualified Households and reasonable maintenance. However, a Residential Unit shall not be vacant for a period greater than sixty (60) days, unless authorized by the Housing Department. If any Residential Unit remains vacant for more than sixty (60) days without approval, the Housing Department has the right, but not the obligation, to identify a Qualified Household to rent the Residential Unit.
- G. Maintenance. The owner shall take good care of the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association and shall make all repairs and maintain the Residential Unit in a safe, sound, habitable, and good condition and state of repair. In case of damage to the Residential Unit, the owner shall repair the damage or replace or restore any destroyed parts of the Residential Unit, as speedily as practical.

- H. Capital Improvements. The Owner may only undertake capital improvements to the Residential Unit in accordance with the policies set forth in the Rules and Regulations, which policies may include but are not limited to, a limitation on the valuation of such improvements at resale, requirements regarding the advance written approval of such improvements, and documentation of proposed and completed improvements.
- I. Insurance. The owner shall keep the Residential Unit continuously insured against “all risks” of physical loss (not otherwise covered by a homeowner’s association insurance), for the full replacement value of the Residential Unit.
- J. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all supplements and amendments thereto, and any other rules and regulations of any applicable homeowner’s association, as the same may be adopted from time to time.
- K. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, the Rules and Regulations and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, development or transfer of a Residential Unit, Owner shall comply, and shall cause all occupants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to Owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.

**SECTION 4. TRANSFER LIMITATIONS.** Each Residential Unit may only be sold in accordance with Sections 5, 6 and 7 below or transferred in accordance herewith as follows:

- A. Divorce. In the event of the divorce of an owner, the Housing Department may consent to the transfer of the Residential Unit to the spouse of such owner, which spouse may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- B. Death. In the event of the death of an owner, the Housing Department may consent to the transfer of the Residential Unit to an heir or devisee of such deceased owner, which heir or devisee may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- C. Nonqualified Transferee. If title to the Residential Unit vests in a Nonqualified Transferee, as defined in the Rules and Regulations, the Residential Unit shall immediately be listed for sale in accordance with these Special Restrictions and the Rules and Regulations, or in the alternative, the Housing Department may exercise its option herein to purchase the Residential Unit. The following shall apply when the Housing Department determines there is a Nonqualified Transferee:

1. The Housing Department shall provide the Nonqualified Transferee a reasonable period within which to qualify as a Qualified Household.
2. If the Nonqualified Transferee does not qualify as a Qualified Household within such reasonable period, he or she shall cooperate with the Housing Department to effect the sale, conveyance or transfer of the Residential Unit to a Qualified Household and shall execute any and all documents necessary to such sale, conveyance or transfer.
3. A Nonqualified Transferee shall comply with these Special Restrictions, the Rules and Regulations, the Declaration, zoning and all Laws governing the ownership, occupancy, use, development or transfer of the Residential Unit, and further may only occupy the Residential Unit with the prior written consent of the Housing Department

**SECTION 5. INITIAL SALE OF THE RESIDENTIAL UNIT.** At initial sale, the Residential Unit may only be sold to a Qualified Household at a purchase price as Owner and prospective buyer may determine and subject to these Special Restrictions. After Owner and a prospective buyer enter into a purchase agreement for the purchase and sale of the Unit and at least thirty (30) days prior to purported closing of the purchase and sale, the prospective buyer shall provide such information as may be required by the Housing Department for it to determine if the prospective buyer is a Qualified Household. If the prospective buyer does not qualify as a Qualified Household, such buyer may not purchase the Unit. At all subsequent sales, the Housing Department will conduct a Weighted Drawing to identify a buyer.

**SECTION 6. RESALE OF RESIDENTIAL UNIT.** An Owner desiring to sell a Residential Unit shall give written notice to the Housing Department of such desire (the “Notice to Sell”), and after receipt of such notice, the Housing Department shall determine the “Maximum Resale Price,” as provided herein and in accordance with the Rules and Regulations. Upon the Housing Department’s determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the procedure set forth in the Rules and Regulations, which procedure may include, without limitation: a fee (not to exceed two percent (2%)) of the Maximum Resale Price paid to the Housing Department for such facilitation; requirements regarding listing the Residential Unit with the Housing Department and/or a licensed real estate agent, as the Housing Department may direct; standard terms for the sales contract; and procedure for the selection of the purchaser (which selection procedure may include a weighted drawing process). Any such conveyance of a Residential Unit shall be subject to these Special Restrictions. Each purchaser of a Residential Unit shall execute a Buyer’s Acknowledgment of Special Restrictions and Option, on a form to be provided by the Housing Department. Notwithstanding the foregoing, upon receipt of notice from an owner of such owner’s desire to sell a Residential Unit, the Housing Department may purchase such Residential Unit. So long as such owner is not otherwise in default as defined herein, the purchase price in such case shall be the Maximum Resale Price as calculated below and subject to adjustment as provided herein. If an owner is in default, other provisions of these Special Restrictions may apply in determining the purchase price.



**SECTION 7. MAXIMUM RESALE PRICE.** To further the Town of Jackson's goal of providing affordable housing, after the initial sale, a Residential Unit may not be sold for a purchase price in excess of the "Maximum Resale Price." The Maximum Resale Price is the current owner's purchase price plus an increase in price of the Denver-Boulder-Greeley CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or three percent (3%), whichever is lower, per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Resale Price, the actual sales proceeds delivered to a selling owner may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department's sole and absolute discretion. Finally, to ensure that the sales price of any Residential Unit is limited to the Maximum Resale Price, no purchaser of a Residential Unit shall assume any obligation of a selling owner, nor shall such purchaser pay or provide to a selling owner any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Resale Price, as made by the Housing Department, shall be final and binding on all parties.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY THAT UPON THE RESALE OF A RESIDENTIAL UNIT, OWNER SHALL OBTAIN THE ENTIRE MAXIMUM RESALE PRICE.

**SECTION 8. DEFAULT.** Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. Vacancy of a Residential Unit for more than sixty (60) days continuously
- C. Failure to pay or default of any other obligations due or to be performed with respect to a Residential Unit which failure to pay or default could result in a lien against a Residential Unit, including without limitation, homeowner dues, property taxes, payment required by a promissory note or mortgage purporting to affect a Residential Unit. Owner shall notify the Housing Department in writing of any notification received from any lender or third party of past due payments or default in payment or other obligations due or to be performed within five (5) calendar days of Owner's notification.
- D. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially declared insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit or Owner's property by a court of competent jurisdiction.
- E. Fraud or misrepresentation by purchaser, Owner and/or occupant in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a Designee of the Housing Department, shall send written notice to Owner of such violation, the required action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

**SECTION 9. DEFAULT REMEDIES.** In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, the Housing Department's remedies shall include, without limitation, as an exercise of its regulatory authority, the following:

A. Purchase Option.

1. The Housing Department shall have the option to purchase the Residential Unit for a purchase price equal to the Maximum Resale Price, or the appraised value whichever is less, subject to the Housing Department's ability to limit appreciation as provided in this Section ("Option") and further subject to the Housing Department's ability to reduce proceeds as provided above.
2. If the Housing Department desires to exercise its Option, the Housing Department shall provide written notice to Owner of such election. Such notice shall include the purchase price and the timing for the closing of the purchase. The Option must be exercised within ninety (90) days from receipt of a notification of borrower Default or the property foreclosure.

B. Forced Sale. The Housing Department may require Owner to sell the Residential Unit in accordance with the resale procedures set forth in these Special Restrictions and the Rules and Regulations. Such sale shall be subject to these Special Restrictions.

C. Whether the Housing Department elects to exercise its Option or to force a sale in accordance herewith, all proceeds, unless otherwise required by statute, will be applied in the following order:

FIRST, to the payment of any unpaid taxes;

SECOND, to the payment of any Qualified Mortgage;

THIRD, to assessments, claims and liens on the Residential Unit (not including any mortgage or lien purportedly affecting the Residential Unit which is not a Qualified Mortgage);

FOURTH, to the payment of the closing costs and fees;

FIFTH, to the two percent (2%) facilitation fee to the Housing Department;

SIXTH, to the payment of any penalties assessed against Owner by the Housing Department;

SEVENTH, to the repayment to the Housing Department of any monies advanced by it in connection with a mortgage or other debt with respect to a Residential Unit, or any other payment made Owner's behalf;

EIGHTH, to any repairs needed for the Residential Unit; and

NINTH, any remaining proceeds shall be paid to Owner.

If there are insufficient proceeds to satisfy the foregoing, Owner shall remain personally liable for such deficiency.

- D. Appointment of Housing Department as Owner's Attorney-in-Fact. In the event the Housing Department exercises its Option or requires the Forced Sale, Owner hereby irrevocably appoints the then-serving Housing Manager as such Owner's attorney-in-fact to effect any such purchase or sale on Owner's behalf (including without limitation the right to cause an inspection of the Residential Unit and make such repairs to the Residential Unit as the Housing Department may reasonably deem necessary), and to execute any and all deeds of conveyance or other instruments necessary to fully effect such purchase or sale and conveyance.
- E. Limitation on Appreciation at Resale. The Housing Department may fix the Maximum Resale Price of a defaulting owner's Residential Unit to the Maximum Resale Price for the Residential Unit as of the date of an owner's Default (or as of such date after the Default as the Housing Department may determine), and in such event, the Maximum Resale Price shall cease thereafter to increase.
- F. Equitable Relief. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations, and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance. Any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or under the laws of the State of Wyoming.
- G. Enforcement. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, seek enforcement through the Town or County Land Development Regulations, including but not limited to Division 8.9 Enforcement or as amended.

#### **SECTION 10. QUALIFIED MORTGAGE.**

- A. Only a mortgage which is a "Qualified Mortgage" shall be permitted to encumber a Residential Unit. A "Qualified Mortgage" is a mortgage that:
  - 1. The principal amount of such mortgage at purchase does not exceed ninety-six and one half percent (96.5%) of the purchase price, and thereafter the principal amount of such mortgage, any refinanced mortgage and/or additional mortgages

combined do not exceed ninety-five percent (95%) of the then current Maximum Resale Price as the same is determined by the Housing Department at the time or times any such mortgage purports to encumber the Residential Unit; and

2. Runs in favor of a "Qualified Mortgagee," defined as:

- i. An "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision; or
- ii. A "community loan fund", or similar non-profit lender to housing projects for income-eligible persons (e.g., is not given to or acquired by any individual person); or
- iii. A non-affiliated, legitimate, "finance company." In no event may such finance company be an individual or any company that is affiliated with or has any affiliation with Owner or any family member of Owner; or
- iv. JHTCA or Housing Department for any monies advanced by JHTCA or Housing Department in connection with a mortgage or other debt with respect to Residential Unit.

B. Termination Resulting from Foreclosure by a Qualified Mortgagee. These Special Restrictions as applied to a Residential Unit may be terminated by a Qualified Mortgagee in the event of a lawful foreclosure of the Residential Unit by such Qualified Mortgagee, as follows:

1. The Qualified Mortgagee provided to the Housing Department copies of all notices of intent to foreclose and all other notices related to the foreclosure contemporaneously with its service of such notices upon an owner.
2. The Housing Department did not exercise its rights as provided in Section 10, Qualified Mortgage.
3. Termination may occur only after expiration of all applicable redemption periods and subsequent recordation of a Sheriff's Deed (or other transfer document as approved by the Housing Department in its sole and absolute discretion) conveying title to a purchaser, who is not (i) Owner, (ii) a member of the Qualified Household, (iii) a person affiliated with or related to Owner or any member of the Qualified Household, or (iv) the Housing Department.
4. In the event of a foreclosure hereunder, the Qualified Mortgagee shall pay to the Housing Department all proceeds remaining, if any, after payment of the Qualified Mortgage loan amount, interest, penalties and fees, which proceeds would have been payable to Owner of the foreclosed Residential Unit.

5. Notwithstanding the notice requirements to the Housing Department in this Section, if a Qualified Mortgagee has failed to provide the Housing Department copies of all notices of intent to foreclose and all notices related to the foreclosure contemporaneously with its service on an owner, such Qualified Mortgagee, prior to foreclosing on the Residential Unit, shall provide the Housing Department with notice of its intent to foreclose ("Mortgagee Notice to the Housing Department"). The Mortgagee Notice to the Housing Department shall include all information relevant to Owner's default and the actions necessary to cure such default. The Housing Department shall have forty-five (45) days from the date of the Mortgagee Notice to the Housing Department to exercise its rights under Section 10, Qualified Mortgage. If the Housing Department fails to exercise its rights within such 45-day period, the Qualified Mortgagee may foreclose on the Residential Unit as provided herein.

Nothing herein shall limit or restrict an owner's right of statutory redemption, in which event, if an owner redeems, these Special Restrictions shall remain in full force and effect.

- C. Any mortgage, lien or other encumbrance executed or recorded against a Residential Unit that is not a Qualified Mortgage shall:
  1. be deemed unsecured; and
  2. only be a personal obligation of an owner and shall not affect or burden, and shall not be enforceable against, such Residential Unit.

Additionally, the execution or recordation of such mortgage, lien or other encumbrance shall be deemed a default hereunder and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation the right of the Housing Department to purchase and to force a sale.

- D. In the event an owner fails to make timely payment owed or otherwise breaches any of the covenants or agreements made in connection with any mortgage, lien or other encumbrance purporting to affect the Residential Unit, including without limitation a Qualified Mortgage, fails to timely make any other payment required in connection with the Residential Unit, including without limitation homeowner association dues and fees, assessments, payments to contractors, materialmen, or other vendors for work undertaken for which a lien could be filed against the Residential Unit, the Housing Department shall have (in addition to the any other remedies) the right to:
  1. Cure such default and assume the payments and other obligations of Owner. In such event, Owner shall be in default of these Special Restrictions, and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation its option to purchase and its right to force a sale. In addition to such remedies, Owner shall also be liable to the Housing Department for any amounts advanced.

2. Acquire the loan from the lender by paying the balance due together with reasonable accrued interest and costs, and the Housing Department shall thereafter have the right to foreclose upon the Residential Unit in accordance with the mortgage and other loan documents or take such other action as the Housing Department shall determine.
3. Purchase the Residential Unit at any foreclosure sale, and in such event, notwithstanding anything to the contrary herein, the Residential Unit shall remain subject to these Special Restrictions.

ANY LENDER BY ENTERING INTO A LOAN TRANSACTION WITH AN OWNER OF A RESIDENTIAL UNIT HEREBY CONSENTS TO THE FOREGOING AND ACKNOWLEDGES THAT ANY INTEREST ACQUIRED BY VIRTUE OF ITS LIEN OR MORTGAGE SHALL BE SUBJECT AND SUBORDINATE TO THESE SPECIAL RESTRICTIONS.

#### **SECTION 11. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.**

- C. Termination by the Town of Jackson. These Special Restrictions may be terminated after a determination by the Town of Jackson that these Special Restrictions are no longer consistent with the Town's goals for affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the Land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and the Town of Jackson, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors

**SECTION 12. SPECIAL RESTRICTIONS AS COVENANT.** These Special Restrictions shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department and the Town of Jackson.

**SECTION 13. NOTICES.** All notices required to be served upon the parties to this Special Restriction shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address in the manner provided for giving notice.

#### **To Housing Department**

Jackson/Teton County Affordable Housing Department  
P.O. Box 714

Jackson, WY 83001

**With a Copy to:**

Town of Jackson.

P.O. Box 1687.

Jackson, WY 83001.

To Owner

Nate Siegler

P.O. Box 11277

Jackson, WY 83002

**SECTION 14. ATTORNEY'S FEES.** In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

**SECTION 15. CHOICE OF LAW, FORUM.** These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions.

**SECTION 16. SEVERABILITY.** Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

**SECTION 17. SECTION HEADINGS.** Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

**SECTION 18. WAIVER.** No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

**SECTION 19. INDEMNIFICATION.** Owner shall indemnify, defend, and hold the Housing Department and the Town of Jackson, and each entity's directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and

expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for Owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and the Town of Jackson.

**SECTION 20. SUCCESSORS AND ASSIGNS.** These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

**SECTION 21. GOVERNMENTAL IMMUNITY.** Neither the Town of Jackson nor the Housing Department waives governmental immunity by executing these Special Restrictions and specifically retain immunity and all defenses available to them as government pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

**IN WITNESS WHEREOF,** the undersigned have executed this instrument as of the Effective Date.

**OWNER:**

\_\_\_\_\_  
Nate Siegler,

STATE OF WYOMING                    )  
  ) ss.  
COUNTY OF TETON                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the foregoing instrument was acknowledged before me by Nate Siegler, as Owner, of 199 E Pearl Unit 205, Jackson Wyoming.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public  
My commission expires:

**TOWN OF JACKSON**

\_\_\_\_\_  
Pete Muldoon, Mayor



STATE OF WYOMING                    )  
  ) ss.  
COUNTY OF TETON                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the foregoing instrument was acknowledged before me by Pete Muldoon as Mayor, of the Town of Jackson, Wyoming.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public  
My commission expires:

**JACKSON/TETON COUNTY HOUSING AUTHORITY:**

\_\_\_\_\_  
Matthew Faupel, Chair

STATE OF WYOMING                )  
  ) ss.  
COUNTY OF TETON                )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2019, the foregoing Special Restrictions for Affordable Housing was acknowledged before me by Matthew Faupel as Board Chair.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public

Approved as to form:

**JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT:**

\_\_\_\_\_  
Stacy A. Stoker, Housing Manager

STATE OF WYOMING                )  
  ) ss.  
COUNTY OF TETON                )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2019, the foregoing Special Restrictions for Affordable Housing was acknowledged before me by Stacy A. Stoker as Housing Manager.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public

**COMPLETE AMENDMENT AND RESTATEMENT**  
**Special Restrictions**  
**For Workforce Ownership Housing**  
**Located at**  
**4307 Sage Meadow Road Teton County, Wyoming**

This Complete Amendment and Restatement of the Deed Restriction for Purchase, Occupancy, and Resale recorded in the Office of the Teton County Clerk as document number 0507923 book of photo 392 pages 634-647 for 4307 Sage Meadow Road is made this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by Jackson/Teton County Housing Authority (JTCHA), who is the undersigned owner ("Owner") ("Special Restrictions").

**RECITALS:**

**WHEREAS**, the undersigned Owner holds fee ownership interest in that certain real property known as 4307 Sage Meadow Road located in Teton County, Wyoming, and more specifically described as follows:

Lot 14 of the Sage Meadows Subdivision, Teton County, Wyoming, according to that plat recorded in the Office of the Teton County Clerk on June 4, 1999 as Plat No. 956

PIDN: 22-40-16-20-1-09-014 (the "Land");

**WHEREAS**, as a condition of its FDP (DEV98-0012), dated June 16, 1998 for the Final Development Plan to Teton County (the "FDP Approval"), Developer was required to dedicate twenty-three (23) Affordable housing Units as Affordable Ownership units to be owned by households who work in Teton County and will occupy the units as their sole primary residences with sunset clauses that would terminate the Deed Restriction after twenty (20) years of continual ownership (the "Residential Units");

Lot 14, a single family detached dwelling unit. Two bedroom, one bathroom, with loft, 1036 SF living space, 264 SF garage, originally Category 2 now Workforce Housing to remove the sunset clause.

**WHEREAS**, in furtherance of the goals, objectives, requirements and conditions of the FDP Approval, Owner was required to restrict the initial and all subsequent sales and transfers of each Residential Unit, defined above, to a "Qualified Household," until the sunset clause expiration;

**WHEREAS**, consistent with the foregoing, the Land is subject to those certain Deed Restriction For Purchase, Occupancy, and Resale recorded January 14, 2000 as Document number 0507923 in book of photo 392 pages 634-647 (the "2000 Deed Restrictions");

**WHEREAS**, in accordance with Section 34 of the 2000 Deed Restrictions, the Deed Restrictions may be modified with the written consent of Owner and TCHA ;

**WHEREAS**, the Jackson Town Council and Teton County Board of County Commissioners voted to amend their 1990 Resolution creating the Teton County Housing Authority (“TCHA”) and further amend the 1999 Resolution, to form a regional Housing Authority pursuant to Wyoming Statute §15-10-116(b) with the County of Teton and the Town of Jackson forming the regional housing authority known as the Jackson/Teton County Housing Authority (“JTCHA”), making the JTCHA the successor in interest to all deeds, documents, leases, and contracts of TCHA;

**WHEREAS**, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department (“Housing Department”) who will be employees of Teton County and agents acting on behalf of the JTCHA;

**WHEREAS**, in accordance with such Section 34 of the 2000 Deed Restrictions, and consistent with the foregoing Recitals, JTCHA who is the undersigned Owner now desires to amend, restate and replace in their entirety with respect to the Residential Unit and Land the 2000 Deed Restrictions by adopting these Complete Amended and Restated Special Restriction for Workforce Housing Located at 4307 Sage Meadow Road Teton County Wyoming. (“Special Restrictions”);

**WHEREAS**, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to W.S. §15-10-116, as amended, and its successors or assigns, the Jackson/Teton County Affordable Housing Department (collectively “Housing Department”) and Teton County, Wyoming.;

#### **RESTRICTIONS:**

**NOW THEREFORE**, in satisfaction of the conditions in the FDP Approval, and in further consideration of the foregoing Recitals, which are by this reference incorporated herein, Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Unit, that the Land and each Residential Unit shall be owned, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

**SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT RULES AND REGULATIONS.** References made herein to the “Rules and Regulations” are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended, modified, or updated from time to time and which policies, procedures and guidelines are on file with the Housing Department or otherwise with Teton County, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

## SECTION 2. OWNERSHIP BY QUALIFIED HOUSEHOLD.

- A. Qualified Household. The ownership, use and occupancy of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household for Workforce Housing, as set forth below ("Qualified Household").
1. Employment Requirement. At least one (1) member of the Qualified Household must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A "local business" means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the business serves clients or customers who are physically located in Teton County, Wyoming.
  2. Income Requirement: The entire Qualified Household must earn at least seventy-five percent (75%) of the Household's income from a local business, as defined above.
  3. No Teton County Residential Real Estate. No member of the Qualified Household may own or have any interest (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) in whole or in part in any other residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at any time during occupancy of the Residential Unit.
  4. Determination by the Housing Department. The Housing Department shall determine whether a prospective occupant is a Qualified Household. In addition to any requirements set forth in the Rules and Regulations, such determinations shall be based upon written applications, representations, information and verification as are deemed by the Housing Department to be necessary to establish and substantiate eligibility.
  5. Continuing Obligation to Remain a Qualified Household. Households residing in the Residential Unit shall satisfy the definition of a Qualified Household at all times during occupancy of the Residential Unit.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of Teton County, Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.
- C. Ownership by Housing Department. Notwithstanding the foregoing, the Housing Department may purchase and own the Residential Unit.

**SECTION 3. RESTRICTIONS ON OCCUPANCY, IMPROVEMENT AND USE OF RESIDENTIAL UNIT.** In addition to any restrictions included in the Rules and Regulations, occupancy and use of the Residential Unit shall be restricted as follows:

- A. Occupancy.
  - a. Occupancy by Owner. The Residential Unit may only be occupied by a Qualified Household, shall be such Qualified Household's sole and exclusive primary residence, and each Qualified Household occupying the Residential Unit shall physically reside therein on a full-time basis, at least ten (10) months out of each calendar year. Except for permitted guests, no person other than those comprising the Qualified Household may occupy the Unit, provided that such requirement does not violate federal or state fair housing laws.
  - b. Occupancy by Tenant. The Residential Unit occupied by a tenant shall be the Qualified Household's sole and exclusive primary residence, and each tenant of a Residential Unit shall physically reside therein on a full-time basis, at least eighty percent (80%) of the term of the lease. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit. Only members of the Qualified Household may occupy a Residential Unit.
- B. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.
- C. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of thirty (30) cumulative days per calendar year.
- D. Renting. Owners may rent the Residential Unit to a Qualified Household after verification and qualification of eligibility by the Housing Department.
- E. Rental Term. The Residential Unit shall be offered for rent in periods of not less than thirty-one (31) days.
- F. Vacancies. The Residential Unit may be vacant intermittently between tenancies to allow for proper advertisement and verification for Qualified Households and reasonable maintenance. However, a Residential Unit shall not be vacant for a period greater than sixty (60) days, unless authorized by the Housing Department. If any Residential Unit remains vacant for more than sixty (60) days without approval, the Housing Department has the right, but not the obligation, to identify a Qualified Household to rent the Residential Unit.
- G. Maintenance. The owner shall take good care of the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association and shall make all repairs and maintain the Residential Unit in a safe, sound, habitable, and good condition and state of repair. In case of damage to the Residential Unit, the owner shall repair the damage or replace or restore any destroyed parts of the Residential Unit, as speedily as practical.

- H. Capital Improvements. The Owner may only undertake capital improvements to the Residential Unit in accordance with the policies set forth in the Rules and Regulations, which policies may include but are not limited to, a limitation on the valuation of such improvements at resale, requirements regarding the advance written approval of such improvements, and documentation of proposed and completed improvements.
- I. Insurance. The owner shall keep the Residential Unit continuously insured against “all risks” of physical loss (not otherwise covered by a homeowner’s association insurance), for the full replacement value of the Residential Unit.
- J. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all supplements and amendments thereto, and any other rules and regulations of any applicable homeowner’s association, as the same may be adopted from time to time.
- K. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, the Rules and Regulations and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, development or transfer of a Residential Unit, Owner shall comply, and shall cause all occupants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to Owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.

**SECTION 4. TRANSFER LIMITATIONS.** Each Residential Unit may only be sold in accordance with Sections 5, 6 and 7 below or transferred in accordance herewith as follows:

- A. Divorce. In the event of the divorce of an owner, the Housing Department may consent to the transfer of the Residential Unit to the spouse of such owner, which spouse may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- B. Death. In the event of the death of an owner, the Housing Department may consent to the transfer of the Residential Unit to an heir or devisee of such deceased owner, which heir or devisee may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- C. Nonqualified Transferee. If title to the Residential Unit vests in a Nonqualified Transferee, as defined in the Rules and Regulations, the Residential Unit shall immediately be listed for sale in accordance with these Special Restrictions and the Rules and Regulations, or in the alternative, the Housing Department may exercise its option herein to purchase the Residential Unit. The following shall apply when the Housing Department determines there is a Nonqualified Transferee:

1. The Housing Department shall provide the Nonqualified Transferee a reasonable period within which to qualify as a Qualified Household.
2. If the Nonqualified Transferee does not qualify as a Qualified Household within such reasonable period, he or she shall cooperate with the Housing Department to effect the sale, conveyance or transfer of the Residential Unit to a Qualified Household and shall execute any and all documents necessary to such sale, conveyance or transfer.
3. A Nonqualified Transferee shall comply with these Special Restrictions, the Rules and Regulations, the Declaration, zoning and all Laws governing the ownership, occupancy, use, development or transfer of the Residential Unit, and further may only occupy the Residential Unit with the prior written consent of the Housing Department

**SECTION 5. INITIAL SALE OF THE RESIDENTIAL UNIT.** At initial sale, the Residential Unit may only be sold to a Qualified Household at a purchase price as Owner and prospective buyer may determine and subject to these Special Restrictions. After Owner and a prospective buyer enter into a purchase agreement for the purchase and sale of the Unit and at least thirty (30) days prior to purported closing of the purchase and sale, the prospective buyer shall provide such information as may be required by the Housing Department for it to determine if the prospective buyer is a Qualified Household. If the prospective buyer does not qualify as a Qualified Household, such buyer may not purchase the Unit. At all subsequent sales, the Housing Department will conduct a Weighted Drawing to identify a buyer.

**SECTION 6. RESALE OF RESIDENTIAL UNIT.** An Owner desiring to sell a Residential Unit shall give written notice to the Housing Department of such desire (the “Notice to Sell”), and after receipt of such notice, the Housing Department shall determine the “Maximum Resale Price,” as provided herein and in accordance with the Rules and Regulations. Upon the Housing Department’s determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the procedure set forth in the Rules and Regulations, which procedure may include, without limitation: a fee (not to exceed two percent (2%)) of the Maximum Resale Price paid to the Housing Department for such facilitation; requirements regarding listing the Residential Unit with the Housing Department and/or a licensed real estate agent, as the Housing Department may direct; standard terms for the sales contract; and procedure for the selection of the purchaser (which selection procedure may include a weighted drawing process). Any such conveyance of a Residential Unit shall be subject to these Special Restrictions. Each purchaser of a Residential Unit shall execute a Buyer’s Acknowledgment of Special Restrictions and Option, on a form to be provided by the Housing Department. Notwithstanding the foregoing, upon receipt of notice from an owner of such owner’s desire to sell a Residential Unit, the Housing Department may purchase such Residential Unit. So long as such owner is not otherwise in default as defined herein, the purchase price in such case shall be the Maximum Resale Price as calculated below and subject to adjustment as provided herein. If an owner is in default, other provisions of these Special Restrictions may apply in determining the purchase price.



**SECTION 7. MAXIMUM RESALE PRICE.** To further Teton County Wyoming's goal of providing affordable housing, after the initial sale, a Residential Unit may not be sold for a purchase price in excess of the "Maximum Resale Price." The Maximum Resale Price is the current owner's purchase price plus an increase in price of the Denver-Boulder-Greeley CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or three percent (3%), whichever is lower, per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Resale Price, the actual sales proceeds delivered to a selling owner may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department's sole and absolute discretion. Finally, to ensure that the sales price of any Residential Unit is limited to the Maximum Resale Price, no purchaser of a Residential Unit shall assume any obligation of a selling owner, nor shall such purchaser pay or provide to a selling owner any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Resale Price, as made by the Housing Department, shall be final and binding on all parties.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY THAT UPON THE RESALE OF A RESIDENTIAL UNIT, OWNER SHALL OBTAIN THE ENTIRE MAXIMUM RESALE PRICE.

**SECTION 8. DEFAULT.** Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. Vacancy of a Residential Unit for more than sixty (60) days continuously
- C. Failure to pay or default of any other obligations due or to be performed with respect to a Residential Unit which failure to pay or default could result in a lien against a Residential Unit, including without limitation, homeowner dues, property taxes, payment required by a promissory note or mortgage purporting to affect a Residential Unit. Owner shall notify the Housing Department in writing of any notification received from any lender or third party of past due payments or default in payment or other obligations due or to be performed within five (5) calendar days of Owner's notification.
- D. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially declared insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit or Owner's property by a court of competent jurisdiction.
- E. Fraud or misrepresentation by purchaser, Owner and/or occupant in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a Designee of the Housing Department, shall send written notice to Owner of such violation, the required action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

**SECTION 9. DEFAULT REMEDIES.** In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, the Housing Department's remedies shall include, without limitation, as an exercise of its regulatory authority, the following:

A. Purchase Option.

1. The Housing Department shall have the option to purchase the Residential Unit for a purchase price equal to the Maximum Resale Price, or the appraised value whichever is less, subject to the Housing Department's ability to limit appreciation as provided in this Section ("Option") and further subject to the Housing Department's ability to reduce proceeds as provided above.
2. If the Housing Department desires to exercise its Option, the Housing Department shall provide written notice to Owner of such election. Such notice shall include the purchase price and the timing for the closing of the purchase. The Option must be exercised within ninety (90) days from receipt of a notification of borrower Default or the property foreclosure.

B. Forced Sale. The Housing Department may require Owner to sell the Residential Unit in accordance with the resale procedures set forth in these Special Restrictions and the Rules and Regulations. Such sale shall be subject to these Special Restrictions.

C. Whether the Housing Department elects to exercise its Option or to force a sale in accordance herewith, all proceeds, unless otherwise required by statute, will be applied in the following order:

FIRST, to the payment of any unpaid taxes;

SECOND, to the payment of any Qualified Mortgage;

THIRD, to assessments, claims and liens on the Residential Unit (not including any mortgage or lien purportedly affecting the Residential Unit which is not a Qualified Mortgage);

FOURTH, to the payment of the closing costs and fees;

FIFTH, to the two percent (2%) facilitation fee to the Housing Department;

SIXTH, to the payment of any penalties assessed against Owner by the Housing Department;

SEVENTH, to the repayment to the Housing Department of any monies advanced by it in connection with a mortgage or other debt with respect to a Residential Unit, or any other payment made Owner's behalf;

EIGHTH, to any repairs needed for the Residential Unit; and

NINTH, any remaining proceeds shall be paid to Owner.

If there are insufficient proceeds to satisfy the foregoing, Owner shall remain personally liable for such deficiency.

- D. Appointment of Housing Department as Owner's Attorney-in-Fact. In the event the Housing Department exercises its Option or requires the Forced Sale, Owner hereby irrevocably appoints the then-serving Housing Manager as such Owner's attorney-in-fact to effect any such purchase or sale on Owner's behalf (including without limitation the right to cause an inspection of the Residential Unit and make such repairs to the Residential Unit as the Housing Department may reasonably deem necessary), and to execute any and all deeds of conveyance or other instruments necessary to fully effect such purchase or sale and conveyance.
- E. Limitation on Appreciation at Resale. The Housing Department may fix the Maximum Resale Price of a defaulting owner's Residential Unit to the Maximum Resale Price for the Residential Unit as of the date of an owner's Default (or as of such date after the Default as the Housing Department may determine), and in such event, the Maximum Resale Price shall cease thereafter to increase.
- F. Equitable Relief. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations, and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance. Any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or under the laws of the State of Wyoming.
- G. Enforcement. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, seek enforcement through the Town or County Land Development Regulations, including but not limited to Division 8.9 Enforcement or as amended.

#### **SECTION 10. QUALIFIED MORTGAGE.**

- A. Only a mortgage which is a "Qualified Mortgage" shall be permitted to encumber a Residential Unit. A "Qualified Mortgage" is a mortgage that:
  - 1. the principal amount of such mortgage at purchase does not exceed ninety-six and one half percent (96.5%) of the purchase price, and thereafter the principal amount of such mortgage, any refinanced mortgage and/or additional mortgages

combined do not exceed ninety-five percent (95%) of the then current Maximum Resale Price as the same is determined by the Housing Department at the time or times any such mortgage purports to encumber the Residential Unit; and

2. runs in favor of a "Qualified Mortgagee," defined as:

- i. An "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision; or
- ii. A "community loan fund", or similar non-profit lender to housing projects for income-eligible persons (e.g., is not given to or acquired by any individual person); or
- iii. A non-affiliated, legitimate, "finance company." In no event may such finance company be an individual or any company that is affiliated with or has any affiliation with Owner or any family member of Owner; or
- iv. JHTCA or Housing Department for any monies advanced by JHTCA or Housing Department in connection with a mortgage or other debt with respect to Residential Unit.

B. Termination Resulting from Foreclosure by a Qualified Mortgagee. These Special Restrictions as applied to a Residential Unit may be terminated by a Qualified Mortgagee in the event of a lawful foreclosure of the Residential Unit by such Qualified Mortgagee, as follows:

1. The Qualified Mortgagee provided to the Housing Department copies of all notices of intent to foreclose and all other notices related to the foreclosure contemporaneously with its service of such notices upon an owner.
2. The Housing Department did not exercise its rights as provided in Section 10, Qualified Mortgage.
3. Termination may occur only after expiration of all applicable redemption periods and subsequent recordation of a Sheriff's Deed (or other transfer document as approved by the Housing Department in its sole and absolute discretion) conveying title to a purchaser, who is not (i) Owner, (ii) a member of the Qualified Household, (iii) a person affiliated with or related to Owner or any member of the Qualified Household, or (iv) the Housing Department.
4. In the event of a foreclosure hereunder, the Qualified Mortgagee shall pay to the Housing Department all proceeds remaining, if any, after payment of the Qualified Mortgage loan amount, interest, penalties and fees, which proceeds would have been payable to Owner of the foreclosed Residential Unit.

5. Notwithstanding the notice requirements to the Housing Department in this Section, if a Qualified Mortgagee has failed to provide the Housing Department copies of all notices of intent to foreclose and all notices related to the foreclosure contemporaneously with its service on an owner, such Qualified Mortgagee, prior to foreclosing on the Residential Unit, shall provide the Housing Department with notice of its intent to foreclose ("Mortgagee Notice to the Housing Department"). The Mortgagee Notice to the Housing Department shall include all information relevant to Owner's default and the actions necessary to cure such default. The Housing Department shall have forty-five (45) days from the date of the Mortgagee Notice to the Housing Department to exercise its rights under Section 10, Qualified Mortgage. If the Housing Department fails to exercise its rights within such 45-day period, the Qualified Mortgagee may foreclose on the Residential Unit as provided herein.

Nothing herein shall limit or restrict an owner's right of statutory redemption, in which event, if an owner redeems, these Special Restrictions shall remain in full force and effect.

- C. Any mortgage, lien or other encumbrance executed or recorded against a Residential Unit that is not a Qualified Mortgage shall:
  1. be deemed unsecured; and
  2. only be a personal obligation of an owner and shall not affect or burden, and shall not be enforceable against, such Residential Unit.

Additionally, the execution or recordation of such mortgage, lien or other encumbrance shall be deemed a default hereunder and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation the right of the Housing Department to purchase and to force a sale.

- D. In the event an owner fails to make timely payment owed or otherwise breaches any of the covenants or agreements made in connection with any mortgage, lien or other encumbrance purporting to affect the Residential Unit, including without limitation a Qualified Mortgage, fails to timely make any other payment required in connection with the Residential Unit, including without limitation homeowner association dues and fees, assessments, payments to contractors, materialmen, or other vendors for work undertaken for which a lien could be filed against the Residential Unit, the Housing Department shall have (in addition to the any other remedies) the right to:
  1. Cure such default and assume the payments and other obligations of Owner. In such event, Owner shall be in default of these Special Restrictions, and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation its option to purchase and its right to force a sale. In addition to such remedies, Owner shall also be liable to the Housing Department for any amounts advanced.

2. Acquire the loan from the lender by paying the balance due together with reasonable accrued interest and costs, and the Housing Department shall thereafter have the right to foreclose upon the Residential Unit in accordance with the mortgage and other loan documents or take such other action as the Housing Department shall determine.
3. Purchase the Residential Unit at any foreclosure sale, and in such event, notwithstanding anything to the contrary herein, the Residential Unit shall remain subject to these Special Restrictions.

ANY LENDER BY ENTERING INTO A LOAN TRANSACTION WITH AN OWNER OF A RESIDENTIAL UNIT HEREBY CONSENTS TO THE FOREGOING AND ACKNOWLEDGES THAT ANY INTEREST ACQUIRED BY VIRTUE OF ITS LIEN OR MORTGAGE SHALL BE SUBJECT AND SUBORDINATE TO THESE SPECIAL RESTRICTIONS.

#### **SECTION 11. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.**

- C. Termination by Teton County, Wyoming. These Special Restrictions may be terminated after a determination by Teton County, Wyoming that these Special Restrictions are no longer consistent with the Town's goals for affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the Land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and Teton County, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors

**SECTION 12. SPECIAL RESTRICTIONS AS COVENANT.** These Special Restrictions shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department and Teton County.

**SECTION 13. NOTICES.** All notices required to be served upon the parties to this Special Restriction shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address in the manner provided for giving notice.

**To Housing Department**

Jackson/Teton County Affordable Housing Department  
P.O. Box 714  
Jackson, WY 83001

**With a Copy to:**

Teton County.  
P.O. Box 3594  
Jackson, WY 83001.

To Owner  
JTCHA  
P.O. Box 714  
Jackson, WY 83001

**SECTION 14. ATTORNEY'S FEES.** In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

**SECTION 15. CHOICE OF LAW, FORUM.** These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions.

**SECTION 16. SEVERABILITY.** Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

**SECTION 17. SECTION HEADINGS.** Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

**SECTION 18. WAIVER.** No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

**SECTION 19. INDEMNIFICATION.** Owner shall indemnify, defend, and hold the Housing Department and Teton County, Wyoming, and each entity's directors, officers, agents and

employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for Owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and Teton County, Wyoming.

**SECTION 20. SUCCESSORS AND ASSIGNS.** These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

**SECTION 21. GOVERNMENTAL IMMUNITY.** Neither Teton County, Wyoming nor the Housing Department waives governmental immunity by executing these Special Restrictions and specifically retain immunity and all defenses available to them as government pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

**IN WITNESS WHEREOF,** the undersigned have executed this instrument as of the Effective Date.

**JACKSON/TETON COUNTY HOUSING AUTHORITY ("OWNER"):**

\_\_\_\_\_  
Matthew Faupel, Chair

STATE OF WYOMING                    )  
  ) ss.  
COUNTY OF TETON                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the foregoing instrument was acknowledged before me by Matthew Faupel, as Chair, of the Jackson/Teton County Housing Authority.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public  
My commission expires:

ATTEST:

\_\_\_\_\_  
Amy Robinson, Vice Chair



STATE OF WYOMING                    )  
  ) ss.  
COUNTY OF TETON                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the foregoing instrument was acknowledged before me by Amy Robinson, as Vice Chair, of the Jackson/Teton County Housing Authority.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public  
My commission expires:

Approved as to form:

**JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT:**

\_\_\_\_\_  
Stacy A. Stoker, Housing Manager  
STATE OF WYOMING                    )  
  ) ss.  
COUNTY OF TETON                    )

On \_\_\_\_\_ day of \_\_\_\_\_, 2019, the foregoing Special Restrictions for Affordable Housing was acknowledged before me by Stacy A. Stoker as Housing Manager.

Witness my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public